



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOS/157388

PRELIMINARY RECITALS

Pursuant to a petition filed May 03, 2014, under Wis. Stat. § 48.64(4), and Wis. Admin. Code § DCF 56.10(1), to review a decision by the Racine County Department of Human Services in regard to Foster Care, a hearing was held on December 18, 2014, at Racine, Wisconsin.

The issue for determination is whether the agency properly revoked the Petitioner's foster home license.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] |
[REDACTED] |
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Yvette DeGeorge, Foster Care Worker
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Racine County. He has a foster home license issued by the Racine County Human Services Dept. (hereinafter "the agency").
2. On February 20, 2014, the agency received notice of allegations of Petitioner having inappropriate physical contact with a foster child in the Petitioner's home. The foster child was

removed by the agency from the Petitioner's home and an investigation commenced by the Kenosha County Dept. of Human Services (KCDHS).

3. On or about April 16, 2014, allegations of abuse of a child were substantiated against the Petitioner by KCDHS. The Petitioner filed for a review of the finding with the KCDHS.
4. On April 24, 2014, the agency issued a notice to the Petitioner informing him that his foster home license was revoked effective the date of the notice based on a substantiation of sexual assault of a foster child in his home. On May 5, 2014, the Petitioner requested a hearing with the Division of Hearings and Appeals.
5. On November 18, 2014, an administrative review was conducted by KCDHS. A decision was issued on November 19, 2014 affirming the substantiation of abuse.

DISCUSSION

The purpose of the law regulating foster care licenses is to protect and promote the health, safety, and welfare of children placed in foster homes. Wis. Stat. § 48.67; Wis. Admin. Code § HFS 56.01(1). The best interests of the child must always be the paramount consideration. Wis. Stat. § 48.01(1). Given this mandate, foster care rules must be applied and interpreted strictly to do so.

A foster home license may be revoked if the licensee has committed an action or has created a condition relating to the operation or maintenance of the child welfare agency, shelter care facility, group home, or child care center that directly threatens the health, safety, or welfare of any child under the care of the licensee. See Wis. Stat. § 48.67 (4)(c).

In addition, Wis. Admin Code §HFS 56.05(1) provides, in relevant part, as follows:

DCF 56.05 Licensee qualifications.

(1) Personal requirements and background.

(a) General.

1. A person licensed to operate a foster home shall be a responsible, mature individual who is fit and qualified, who does not abuse alcohol or drugs or have a history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children or operating a foster home, as described in ch. DHS 12, and who exercises sound judgment and displays the capacity to successfully nurture foster children.

...

3. In determining whether a person is fit and qualified, the licensing agency shall consider the person's qualifications under this section and any history of civil or criminal violation of statutes, regulations or ordinances of the United States, this state, any other state, any local government or other U.S. jurisdiction substantially related to the care of children.

KCDHS substantiated allegations of abuse by inappropriate physical contact with a foster child against the Petitioner. The substantiation was upheld on administrative review. The substantiation of abuse constitutes a condition that directly threatens the health, safety, or welfare of children that would be in the Petitioner's care as a foster child. In addition the substantiation represents an administrative rule violation that substantially related to caring for children and operating a foster care home. The agency is required by DCF 560.05(1)(a)3 to consider such violations in its ongoing determination of the fitness and qualification of licensed foster parents.

Based on the evidence submitted, I conclude the agency properly revoked the Petitioner's foster home license based on the substantiation of abuse of a foster child in the Petitioner's home.

I note that the Petitioner has filed a request for a judicial review of the substantiation with circuit court. The Petitioner was advised that this decision contains instructions with regard to filing an appeal to circuit court but that he should consult with the attorney that he retained for his circuit court substantiation appeal regarding this decision.

CONCLUSIONS OF LAW

The agency properly revoked the Petitioner's foster home license based on substantiated allegations of child abuse of a foster child in Petitioner's home.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 5th day of May, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 5, 2015.

Racine County Department of Human Services
DCF - Foster Care